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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOUSING RIGHTS INITIATIVE,

Plaintiff,

-against-

COMPASS, INC., et al.,

Defendants.

21-CV-2221 (SHS) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

For the reasons discussed during today's discovery conference, it is hereby ORDERED that, no later than **June 26, 2024**, defendant Chandler Management, LLC (Chandler) must produce all remaining nonprivileged documents that are responsive to plaintiff's First Request for Documents (*see* Dkt. 787-2) and within Chandler's "possession, custody, or control," as those terms are used in Fed. R. Civ. P. 34(a)(1). The materials to be produced include (but are not necessarily limited to) the documents described by plaintiff as "monthly management statements" prepared by Chandler's property manager First Management Corp. Chandler is reminded that if a party from which discovery is sought "has the legal right or the practical ability to obtain the documents, then it is deemed to have 'control,'" for purposes of Rule 34(a)(1), "even if the documents are actually in the possession of a non-party." *Riddell Sports Inc. v. Brooks*, 158 F.R.D. 555, 559 (S.D.N.Y. 1994); *see also Jade Farm LLC v. Mirahangiry*, 2022 WL 17586970, at *1 (S.D.N.Y. Nov. 29, 2022) (collecting cases and requiring defendants to produce documents in the physical or electronic custody of a "non-party service provider"); *Benthos Master Fund, Ltd. v. Etra*, 2022 WL 17090848, at *1 (S.D.N.Y. Nov. 21, 2022) ("Generally, a party has the practical ability to obtain documents if he can ask a third party for the documents and receive them."); *Bank of New York v. Meridien BIAO Bank Tanzania Ltd.*, 171 F.R.D. 135, 146 (S.D.N.Y. 1997) ("documents are considered to be under a party's control when that party has the right, authority, or practical ability to obtain the documents from a non-party to the action").

It is further ORDERED that, no later than **July 1, 2024**, plaintiff must submit an update letter as to the status of fact discovery.

Dated: New York, New York
June 11, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge